IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6248 OF 2005

Rajendra Vitthal Thombare
& Ors. .. Petitioners.

vs.

Shri. Vitthal Savala Thombare
& Anr. .. Respondents.

Mr. Milind Deshmukh for petitioners.
Mr. A.P. Kulkarni for respondents.

CORAM : S.U. KAMDAR, J.
DATE : 28th November, 2005.

P.C.:

. Rule, returnable forthwith.

2. The present writ petition is filed against the order dated 13.7.2005 passed by the Joint Civil Judge, Junior Division, Baramati refusing to grant amendment application. The sole ground on which the application has been rejected is that in view of Section 16 (2) (b) of the Civil Procedure Code (Amendment) Act, 2002 once the trial has commenced the petitioner is not entitled to amend the said

proceeding. It is now held by this Court that the Amendment Act of 2002 is not retrospective in nature and thus the present suit which has been instituted in 2000 is not governed by the provisions of the Amendment Act of 2002.

3. However, in the application the petitioner is also seeking to implead two persons as newly added defendants. In that view of the matter, the order dated 13.7.2005 is set aside and the application for amendment is remanded back to the trial Court for reconsideration. The trial Court is directed to hear and decide the same afresh after giving notice to the proposed defendants which are sought to be newly added to the proceedings. The trial Court is directed to decide the application on or before 30.12.2005. Petition disposed of accordingly. No order as to costs.